

Appln. No. 10/003,011

Attorney Docket No. 8627-213

II. Remarks

The Applicants thank the Examiner for the case interview on May 14, 2004. During the interview, the Examiner agreed that independent claims 1, 21, and 22 of the present invention are each distinguishable from the device taught in cited German patent *Neuss Malte* (DE 4115136).

Claims 1-22 are rejected and pending. A listing of the pending claims has been provided for the Examiner's convenience. With the remarks provided below, Applicants respectfully request reconsideration and a withdrawal of all rejections.

In one embodiment of the present invention, the grasping device comprises an elongate control member having an atraumatic distal tip section and a grasping portion spaced proximally from the distal tip section. In the present application, the "distal end portion 52 of the control member 50 concludes in a distal tip section 54, and spaced proximally from the proximal end 56 of the distal tip section 54 is the grasping portion 70." Specification, page 8, lines 8-10. The distal tip section provides a smooth transition between the outer sheath and the guide wire. Moreover, the distal tip section protects the vessel wall and reduces the chance that the grasping device will shear off any atheromatous plaque that is encountered while tracking through the vessel.

Responsive to the rejections of claims 1 and 4-6 under 35 U.S.C. § 102(b), *Neuss Malte* (DE 4115136) fails to teach each and every element as set forth in the invention as claimed in independent claim 1. For example, claim 1 recites a medical grasping device comprising "an elongate control member having an atraumatic distal tip section" and separately, "a grasping portion proximal said distal tip section." *Neuss Malte* fails to teach such limitations, although the Office Action on page 2 suggests that reference numeral 2 in *Neuss Malte's* drawings is indicative of the elongate control member as recited in claim 1 of the present application.

Contrarily, *Neuss Malte's* written description is inconsistent with the Examiner's presumptions which only consider *Neuss Malte's* drawings and not the written description. For example, in *Neuss Malte's* written description, reference numeral 2 refers to a "greifarme 2" (see col. 3 lines 43-49; see also col. 4 lines 4-10

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and 31-35) which translates in English as a "grab arm 2." See *Langenscheidt's Standard German Dictionary* (1993), pp. 55, 265, 750, and 973. The German words "greifen" and "arm" translate to the English words "grab" and "arm," respectively. *Id.* Additionally, the Applicants refer the Examiner to Figures 5 and 8 of *Neuss Malte*, depicting the manner in which the three grab arms 2 cooperate. Clearly, *Neuss Malte's* grab arm 2 is merely a grabbing member and not an elongate control member as recited in claim 1 of the present application. Thus, *Neuss Malte* fails to teach each and every element as set forth in claim 1 of the present application.

Claims 4-6 are dependent on claims which depend generally from claim 1. Thus, claims 4-6 are allowable for reasons provided above.

Responsive to the rejection of claims 2 and 3 under 35 U.S.C. § 103(a) as being unpatentable over *Neuss Malte* in view of *Feamot et al.* (EP 472,368), the combination does not teach or suggest all the elements of claims 2 and 3. Claims 2 and 3 are dependent claims which depend generally from claim 1, the elements of which are not taught or suggested by *Neuss Malte*. In addition, there is no suggestion or motivation to combine *Neuss Malte* and *Feamot et al.* to provide a lumen extending through the elongate control member and a hemostatic seal as recited in dependent claims 2 and 3.

Responsive to the rejection of claim 7 under 35 U.S.C. § 103(a) as being unpatentable over *Neuss Malte* in view of *Avellanet* (6,264,664), the combination does not teach or suggest all the elements of claim 7. Claim 7 is a dependent claim which depends generally from claim 1, all the elements of which are not taught or suggested by *Neuss Malte*. In addition, there is no suggestion or motivation to combine *Neuss Malte* and *Avellanet* to provide a connecting block affixed to the elongate control member as recited in dependent claim 7.

Responsive to rejections of dependent claims 8-20 under 35 U.S.C. § 103(a) over *Neuss Malte* in view of *Hillstead* (5,098,440), the combination does not teach or suggest all the elements of claims 8-20. As stated above, neither of the references alone nor combination thereof teaches all the elements of independent claim 1 from which claims 8-20 depend. In addition, there is no suggestion or motivation in

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Neuss Malte or *Hillstead* to combine the references to result in all the limitations recited in claims 8-20.

Responsive to the rejection of independent claim 21 under 35 U.S.C. § 103(a) over *Neuss Malte* in view of *Hillstead*, neither of the references nor the combination thereof teaches or suggests all the elements of claim 21. For example, claim 21 recites a medical grasping device comprising "an elongate control member having a distal tip section" and separately "at least one loop proximal the distal tip section." *Neuss Malte* does not teach all of the elements of claim 21 and *Hillstead* does not teach or suggest elements to cure *Neuss Malte's* deficiencies. The combination simply does not teach or suggest an elongate control member having a distal tip section and separately a loop spaced proximally from the distal tip. In addition, there is no suggestion or motivation to combine *Neuss Malte* and *Hillstead*.

Responsive to the rejection of independent claim 22 under 35 U.S.C. § 103(a) over *Neuss Malte* in view of *Hillstead*, neither of the references nor the combination thereof teaches or suggests all the elements of claim 22. For example, claim 22 recites a medical grasping device comprising "an elongate control member having a distal tip section" and separately "a grasping portion proximal the distal tip section" as recited in independent claim 1. As stated above, *Neuss Malte* does not teach all of the elements of claim 1 and *Hillstead* does not teach or suggest elements to cure *Neuss Malte's* deficiencies. The combination simply does not teach or suggest an elongate control member having a distal tip section and separately a grasping portion spaced proximally from the distal tip. Additionally, there is no suggestion or motivation to combine *Neuss Malte* and *Hillstead*.

Therefore, claims 1-22 are in a condition for allowance and such action is earnestly solicited.

Respectfully submitted,

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Date



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